(24)

HIGH COURT OF CHHATTISGARH AT BILASPUR

M. A. NO. 377 of 2006

APPELLANT Bisahu Ram Manikpuri

Vs

RESPONDENTS Panchuram Ganda

Judgment post for 01-5-2007

Sd/-
Dhirendra Mishra
Judge

(25)

HIGH COURT OF CHHATTISGARH AT BILASPUR
M. A. NO. 377 of 2006

APPELLANT Non-applicant	Bisahu Ram Manikpuri, aged 45 years, S/o. Shri Niranjan Das Manikpuri, R/o. Potarpara, Bagbahara, occupation- employee of Chhattisgarh Electricity Board (Owner and Driver of the vehicle).
Vs	
RESPONDENTS Applicant	Panchuram Ganda, aged 45 years, S/o. Late Shri Baratiya Ganda, R/o. village-Navagaon, Ward No. 10, Bagbahara, Tahsil and District Mahasamund (C.G.)

Shri Vaibhav Govardhan, Counsel for the appellant.

None appears for the respondents, though served.

J U D G M E N T

Per Dhirendra Mishra, J

This appeal under Section 173 of the Motor Vehicles Act, 1988 is directed against the award 6-1-2006 passed by 1st Additional Motor Accident Claims Tribunal, Mahasamund in Claim Case No. 19/2004 whereby an award of Rs. 70,687/- has been passed against the appellant in favour of the respondent for injury sustained by him in a road accident dated 16-7-2004. The Tribunal after recording the finding that the appellant did not have valid licence on the date of accident and he caused the above accident while driving Suzuki motorcycle rashly and negligently in which the respondent sustained grievous injuries, assessed the compensation at Rs. 70,687/-.

The only ground raised by learned counsel for the appellant is that there is no evidence available on record that the appellant sustained permanent disability, even then the amount of compensation has been assessed on the basis of 10% disability which is contrary to the material available on record. Even the income of the appellant has been assessed at Rs. 3,000/- per month which is excessive. The appellant had himself paid the expenses

towards treatment of the respondent and the respondent had lodged report after more than a month just out of greed of money.

I have heard learned counsel for the appellant. I have perused the record as also the impugned award.

It is not in dispute that the appellant was Hamal and nature of work requires complete physical fitness. The appellant has filed the treatment papers including X-ray prints of his right leg. From the report of Ex. P-21, it is found that fracture of mid shaft fibula and tibia with intramedullary nail were seen in the X-ray report. The appellant himself has stated in his deposition that initially he was taken to Government Hospital, Bagbahara from where doctor referred him for proper treatment to Khemka Hospital, Raipur where he was admitted in Intensive Care Unit. He underwent treatment from 16-7-2004 to 16-8-2004 in Khemka Hospital, Raipur. He had spent around Rs. 50,000/- in the treatment, Rs. 5,000/- towards incidental expenses and Rs. 15,000/- towards special diet. By the work of Hamal, he used to earn Rs. 100-150/- per day and because of rod fixed in his leg, now he is not in a position to do the work of Hamal nor he is able to do any work which requires labour and he walks with the help of crutches. He has also proved the disability certificate of Ex. P-19 issued by Dr. G.S. Bachu, Orthopaedic Surgeon, Raipur who has assessed 23% mild permanent disability of right lower limb. In the cross-examination, the fact that respondent is not able to do the hard labour work as also the job of Hamal has not been challenged.

Taking into consideration the overall evidence available on record, nature of job in which the respondent was engaged before the accident, Certificate of Ex. P-19 and duration of hospitalization and unchallenged testimony of the claimant regarding his disability, this Court is of the considered opinion that the amount of compensation awarded to the respondent/claimant is not excessive.

The appeal being devoid of substance, deserves to be dismissed and is accordingly dismissed.

Sd/-
Dhirendra Mishra
Judge

P/-